

Exhibit S

U.S. Patent No. 6,591,303			
Claim No(s).	Claim Term	NetApp's Proposed Construction and Supporting Evidence	Sun's Proposed Construction and Supporting Evidence
9, 27	"grouping identifier"	<p><u>PROPOSED CONSTRUCTION:</u> A label given to a plurality of interfaces that are grouped together to provide input to or output from a switch.</p> <p><u>INTRINSIC EVIDENCE</u></p> <ul style="list-style-type: none"> • See 5:59-6:18; Jan. 4, 1999 Amendment and Response at 4-5; May 15, 2000 Appeals Brief at 12; Dec. 3, 2002 Appeals Brief at 8. <p><u>EXTRINSIC EVIDENCE</u></p> <ul style="list-style-type: none"> • Dr. Anthony Acampora may testify concerning the meaning of this term to one of skill in the art in the context of its use in the '303 patent. • NetApp reserves the right to rely on any evidence identified by Sun. 	<p><u>PROPOSED CONSTRUCTION:</u> Sun contends this term does not require construction because the term is clear on its face. However, if the Court decides the construe this term, the phrase should be construed to mean: "an identifier given to a plurality of interfaces that are grouped together."</p> <p><u>EVIDENCE:</u></p> <ul style="list-style-type: none"> • '303 Patent, Col. 3:6-7; Col. 5:57-6:19; Col. 7:25-35; Col. 8:1-17; Col. 9:18-34; Fig 6a and accompanying text. • '303 Patent Prosecution History, Submission filed on or about Aug. 30, 1999, and references cited therein. • '303 Patent Prosecution History, Appeal Brief of May 15, 2000, and references cited therein. • '303 Patent Prosecution History, Office Action of Aug. 3, 2000, and references cited therein. • '303 Patent Prosecution History, Office Action of Jan. 9, 2001, and references cited therein. • '303 Patent Prosecution History, Appeal brief of Dec. 3, 2002, and references cited therein. • IEEE 802.3ad standard , Sec. 43.

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			<ul style="list-style-type: none"> • Testimony of experts called by Sun, including Mr. Ennis, concerning the meaning of this term to one of skill in the art in the context of its use in the '303 patent. • Sun reserves the right to rely on any evidence identified by NetApp.
20, 28, 35	"homogeneous"	<p>PROPOSED CONSTRUCTION: Having identical physical layer and media access control layer characteristics.</p> <p><u>INTRINSIC EVIDENCE</u></p> <ul style="list-style-type: none"> • See 5:59-6:18. <p><u>EXTRINSIC EVIDENCE</u></p> <ul style="list-style-type: none"> • See Frazier et al., <i>Simple Trunking Model (STruM)</i>, pp. 4-5 (1997). • Dr. Anthony Acampora may testify concerning the meaning of this term to one of skill in the art in the context of its use in the '303 patent. • NetApp reserves the right to rely on any evidence identified by Sun. 	<p>PROPOSED CONSTRUCTION: Sun contends this term does not require construction because the phrase is clear on its face. However, if the Court decides the construe this term, the term should be construed to mean: "having similar characteristics."</p> <p><u>EVIDENCE:</u></p> <ul style="list-style-type: none"> • '303 Patent, Col. 3:6-7; Col. 5:57-6:18; Col. 8:63-9:8; Col. 9:18-28; Col. 9:35-36; Col. 9:46-10:2; Col. 10:11-12; Fig 6a and accompanying text. • homogeneous: of the same or a similar kind or nature. MERRIAM-WEBSTER'S COLLEGIATE DICTIONARY, 10th ed. (1993) (p. 555.). • homogenous networks: composed of similar hardware from the same manufacturer. NEWTON'S TELECOM DICTIONARY: THE OFFICIAL DICTIONARY OF TELECOMMUNICATIONS NETWORKING AND INTERNET, 17th ed. (2001), p. 330. • homogenous computer network: A computer network of similar host computers,

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			<p>such as those of one model by the same manufacturer. The IEEE Standard Dictionary of Electrical and Electronics Terms, Sixth Ed. (IEEE Std 100-1996), p.491.</p> <ul style="list-style-type: none"> • Testimony of experts called by Sun, including Mr. Ennis, concerning the meaning of this term to one of skill in the art in the context of its use in the '303 patent. • Sun reserves the right to rely on any evidence identified by NetApp.
32-34, 41	"trunking pseudo driver"	<p><u>PROPOSED CONSTRUCTION:</u> A software or hardware module that splits data in the transmit path and merges data in the receive path of the interfaces.</p> <p><u>INTRINSIC EVIDENCE</u></p> <ul style="list-style-type: none"> • See 2:51-58; 5:3-15; 5:37-56; 6:43-7:24; Fig. 7 and accompanying text; May 15, 2000 Appeals Brief at 5-7, 14-17; Jan. 30, 2002 Response to Office Action at 3-4; Oct. 21, 2002 Response to Final Office action at 3-6; Dec. 3, 2002 Appeals Brief at 1-3, 11-12; <p><u>EXTRINSIC EVIDENCE</u></p> <ul style="list-style-type: none"> • See Frazier et al., <i>Simple Trunking Model (STruM)</i>, pp. 4-5 (1997). • See Layered Protocols, http://docs.sun.com/app/docs/doc/805-4041/6j3r8iu2e?l=en&a=view&q=layered+protocols • Dr. Anthony Acampora may testify concerning the meaning of this term to one of skill in the art 	<p><u>PROPOSED CONSTRUCTION:</u> Sun contends this term does not require construction because the term is clear on its face. However, if the Court decides the construe this phrase, the term should be construed to mean:</p> <p>"a function residing above the network device driver (or its hardware equivalent) that uses the same MAC address for all the links or interfaces on a trunk."</p> <p><u>EVIDENCE:</u></p> <ul style="list-style-type: none"> • '303 Patent, Col. 2:51-58; Col. 3:6-7; Col. 3:15-17; Col. 5:16-7:24; Col. 9:46-10:10; Col. 10:44-51; Figs. 6a, 7, and accompanying text. • '303 Patent Prosecution History, Office Action of Oct. 7, 1998, and references cited therein. • '303 Patent Prosecution History, Office Action of Feb. 26, 1999, and references cited therein.

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		<p>in the context of its use in the '303 patent.</p> <ul style="list-style-type: none"> NetApp reserves the right to rely on any evidence identified by Sun. 	<ul style="list-style-type: none"> '303 Patent Prosecution History, Submission filed on or about Aug. 30, 1999, and references cited therein. '303 Patent Prosecution History, Office Action of Nov. 10, 1999, and references cited therein. '303 Patent Prosecution History, Submission filed on or about Jan. 19, 2000, and references cited therein. '303 Patent Prosecution History, Office Action of Feb. 11, 2000, and references cited therein. '303 Patent Prosecution History, Appeal Brief of May 15, 2000, and references cited therein. '303 Patent Prosecution History, Office Action of Aug. 3, 2000, and references cited therein. '303 Patent Prosecution History, Submission filed on or about Dec. 8, 2000, and references cited therein. '303 Patent Prosecution History, Office Action of Jan. 9, 2001, and references cited therein. '303 Patent Prosecution History, Office Action of Sept. 28, 2001, and references cited therein. '303 Patent Prosecution History, Submission filed on or about Jan. 30, 2002, and references cited therein. '303 Patent Prosecution History, Office

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Claim No(s).	Claim Term	NetApp's Proposed Construction and Supporting Evidence	Sun's Proposed Construction and Supporting Evidence
			<p>Action of Apr. 2, 2002, and references cited therein.</p> <ul style="list-style-type: none"> • '303 Patent Prosecution History, Submission filed on or about Jun. 11, 2002, and references cited therein. • '303 Patent Prosecution History, Office Action of Aug. 28, 2002, and references cited therein. • '303 Patent Prosecution History, Submission filed on or about Oct. 21, 2002, and references cited therein. • '303 Patent Prosecution History, Office Action of Nov. 4, 2002, and references cited therein. • '303 Patent Prosecution History, Submission filed on or about Dec. 3, 2002, and references cited therein. • Testimony of experts called by Sun, including Mr. Ennis, concerning the meaning of this term to one of skill in the art in the context of its use in the '303 patent. • Sun reserves the right to rely on any evidence identified by NetApp.
22, 36	"end node"	<p><u>PROPOSED CONSTRUCTION:</u> Devices capable of sourcing and sinking packets including routers but not switches.</p> <p><u>INTRINSIC EVIDENCE</u></p> <ul style="list-style-type: none"> • See 1:26-38; 2:23-25; 4:33-56; 5:3-36; 6:1-9; 6:42-7:13. 	<p><u>PROPOSED CONSTRUCTION:</u> Sun contends this term does not require construction because the term is clear on its face. However, if the Court decides the construe this term, the phrase should be construed to mean: "device capable of sourcing and sinking packets including routers but not switches."</p>

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		<p><u>EXTRINSIC EVIDENCE</u></p> <ul style="list-style-type: none"> • See Frazier et al., <i>Simple Trunking Model (STruM)</i>, pp. 1, 4-5 (1997). • Dr. Anthony Acampora may testify concerning the meaning of this term to one of skill in the art in the context of its use in the '303 patent. • NetApp reserves the right to rely on any evidence identified by Sun. 	<p><u>EVIDENCE:</u></p> <ul style="list-style-type: none"> • '303 Patent, Col. 1:11-2:25; Col. 2:59-3:17; Col. 4:32-5:36; Col. 5:57-6:18; Col. 6:20-59; Col. 8:63-9:6; Col. 9:14-15; Col. 9:46-10:2; Col. 10:13-16; Figs 1, 2, 3, 5, 6a-d, 7 and accompanying text. • '303 Patent Prosecution History, Office Action of Oct. 7, 1998, and references cited therein. • '303 Patent Prosecution History, Office Action of Nov. 10, 1999, and references cited therein. • '303 Patent Prosecution History, Appeal Brief of May 15, 2000, and references cited therein. • '303 Patent Prosecution History, Office Action of Aug. 3, 2000, and references cited therein. • '303 Patent Prosecution History, Office Action of Jan. 9, 2001, and references cited therein. • '303 Patent Prosecution History, Office Action of Sept. 28, 2001, and references cited therein. • '303 Patent Prosecution History, Office Action of Apr. 2, 2002, and references cited therein. • '303 Patent Prosecution History, Office Action of Aug. 28, 2002, and references cited therein.

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